THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.1054 of 2006

DATED:23.03.2006

Between:

Gurram Subba Rao ..Petitioner

And

The Government of Andhra Pradesh represented by its Secretary, Panchayat Raj Secretariat Buildings, Saifabad, Hyderabad. and others.

..Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

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ORDER:

The petitioner is the Upa Sarpanch of Endluru Gram Panchayat, Santha Nuthalapadu Mandal, Prakasham District. He filed the instant writ petition seeking a writ of Mandamus declaring the action of the first respondent in entertaining the revision petition submitted by the fourth respondent, as illegal and arbitrary.

It is the case of the petitioner that the fourth respondent, who was elected as Sarpanch of the Village, was removed by the District Collector, Prakasham, by proceedings, dated 10-05-2003. Aggrieved by the same, he preferred an appeal under subsection (7) of Section 249 of the Andhra Pradesh Panchayat Raj Act, 1994 ('the Act', for brevity). After considering the same, the first respondent by their orders in G.O.Rt.No.1209, dated 16-08-2003, dismissed the appeal. Aggrieved by the same, the fourth respondent filed W.P.No.18476 of 2003. Subsequently, the same was dismissed as withdrawn on 29-12-2005. It appears, the fourth respondent submitted a petition styled as 'Review Petition' under Section 264 (3) of the Act to the Hon'ble Minister for Panchayat Raj, Government of Andhra Pradesh, who endorsed on 21-12-2005 directing the Principal Secretary to call for the records and fixed the hearing on 02-01-2006. The petitioner received notice and submitted objections. Nonetheless, he filed the instant writ petition subsequently seeking a writ of Mandamus restraining the Government from entertaining the petition submitted by the fourth respondent.

Whether having regard to the fact that the appeal submitted by the fourth respondent was already dismissed by the Government by their orders in G.O.Rt.No.1209, dated 16-08-2003, a further review petition under Section 264(3) of the Act is maintainable, whether it would be an act of propriety on the part of the Government to entertain such review petition after a lapse of two years and whether the order that might be passed would suffer from illegality? All these questions have to await the exercise or otherwise of the power by the Government. Admittedly, the petitioner has already submitted his reply raising various objections on the alleged review petition submitted by the fourth respondent. In these circumstances, this Court is not inclined to exercise its power of judicial review in the absence of any decision. This Court has no manner of doubt that the Government would bestow its attention to the background of the case and also the true purport of the power conferred on them under Section 264(3) of the Act before passing any orders. The Government is,

therefore, directed to pass appropriate orders within a period of one week from the date of receipt of a copy of this order, keeping in view the observations referred to hereinabove.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(V.V.S.RAO,J)

Dated:23.03.2006

GJ